

FROM : JOHN L CARTIER
11-19-2003 07:23pm

From:PERKINS,SMITH & COHN.

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1-824 P.UU2/UU4 1-666



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: John L. Cartier
Serial No: 09/772,172
Filed: January 29, 2001
For: ICE BREAKER MAT

Examiner: Victor S. Chang
Art Unit: 1771
Confirm No: 9721

RULE 132 DECLARATION

John L. Cartier of Bradford, Massachusetts, states:

1. I am the inventor of the invention described and claimed in the above identified application and founder and President of J.L.C. Enterprises, Inc. which has commercialized the invention. I practiced formerly as an accountant and retired from that profession and have been working (through J.L.C.) on the claimed invention of the above application since before filing the application, and continuously thereafter. In doing so, I have learned of the relevant marketplace, state of the art and level of skill therein.
2. J.L.C. has sold some 200,000 units of a stair mat version of the ice breaker mat described and claimed in the application. I have also developed a variant of it for walkways and other general walking areas and begun to make and sell those. I have developed another for use in non-self-defrosting freezers (associated with refrigerators, walk-in freezers, refrigerated trucks [reefers] etc.) and J.L.C. has sold some 150,000 units of those.
3. I came to the process of commercialization with no engineers, no sales person, minimal capital and gaps of needed experience in sales and manufacture and indeed made errors and otherwise suffered avoidable misfortunes in the course of building the sales. The success of marketing products embodying my invention was due to the merit of the invention. I have arranged for a foreign vendor to do production and developed U.S. and foreign sales channels including (at various steps) catalogue sales, QVC television sales, BJ's Wholesale Club, Ames (until its bankruptcy set us back) and Wal-Mart/Canada.
4. In the selling experience J.L.C. representative/distributors and I experienced ready acceptance of the product once we disclosed it and to the best of my knowledge there has been a strong favorable response of consumers and users.

5. I have inspected many alternatives to dealing with ice that forms on stair surfaces and other surfaces under a variety of conditions (freezing rain, snow melt/refreeze, snow and cold, drainage, etc.) The other approaches involve chemicals applied pre- and post-freezing, hackers, heaters and (at least on paper) various coverings as described in the U.S. patents listed on pages 1-2 of the application (Naka, Sonoda, Yamamoto, Roy) and the Onderak et al, Sundquist, Juneau, Holmquest et al., Brunetto, and Birch et al. references cited by the PTO in the course of examination of the application.

6. I have attached hereto as Appendix A a copy of my application as filed marked to show support for claims now presented and also marked to show omissions in the Onderak et al. and Juneau references.

7. The ice breaking function of my invention depends on resilience that I have achieved with 1/4" thick styrofoam and other thicknesses and composition/density are easily determined once given the disclosure of the invention. But one would grope in the dark to convert the multi-layered anti-skid mat of Onderak et al. into an ice breaker mat since the reference disclosed no such concept. There are foam thicknesses of .05-.2 inches in Onderak et al. Juneau has similar infirmities with a multi-foam layer construction not intended for ice breaking. With due respect the Examiner's talk of optimization either of these references or a combination is no more than an obvious-to-try conjecture based on my disclosure of my invention. I added to stair and other walking on ice related safety in a way that eluded the reference patentees.

8. I have searched housewares stores looking for anything resembling the disclosed product of the Onderak et al and Juneau patents and found nothing. The Onderak patent was filed in 1923. Twenty years later there was no realization by the patentees or anyone else building on their teachings.

9. It is also relevant to note that after many sales of the product of the invention and close attention to market feedback I know no instance of failure of the invention to serve its purpose or of dissatisfaction by any end user consumers.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title

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18 of the United State Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 11/19/03

By: 
John L. Cartier